

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOSHIRO OZAWA

Appeal 2006-3397
Application 09/521,176
Technology Center 2600

Decided: March 22, 2007

Before HOWARD B. BLANKENSHIP, MAHSHID D. SAADAT, and
ALLEN R. MACDONALD, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1-3, 6-13, 16-23, 26-32, 35-38, and 40-49, the only claims pending in this application. We have jurisdiction under 35 U.S.C. §§ 6(b), 134(a).

INTRODUCTION

The claims relate to a program distribution system that is applicable to video on demand (VOD) service. Claim 1 is illustrative:

1. A program distribution system comprising:
 - a receiver; and
 - a transmitter including a distribution controller;said receiver being operable to accept a user request for a desired program, the user request being in a free style text format, to convert the user request into a distribution request e-mail message that includes the user request and that is addressed to said distribution controller of said transmitter, and to send the distribution request e-mail message to said transmitter;
 - said transmitter including:
 - a distributable program storing unit operable to store a plurality of distributable programs,
 - said distribution controller being operable to receive the distribution request e-mail message addressed to said distribution controller, to determine whether the requested program is one of the stored plurality of distributable programs, to transmit an answer e-mail message to said receiver in response to the distribution request e-mail message, the answer e-mail message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable programs, the supplemental information including cryptanalytic information for decrypting the program, and to read out the requested program from said distributable program storing unit when the

requested program is one of the stored plurality of distributable programs,
and

a distributor operable to distribute the requested program to said
receiver.

The Examiner relies on the following prior art references to show
unpatentability:

Yurt	US 5,550,863	Aug. 27, 1996
Hylton	US 5,613,190	Mar. 18, 1997
Ivanov	US 5,706,452	Jan. 06, 1998
Dunn	US 5,721,829	Feb. 24, 1998
Lawler	US 5,805,763	Sep. 08, 1998
Sartain	US 5,914,712	Jun. 22, 1999
Abecassis	US 2001/0041053 A1	Nov. 15, 2001
Venkatraman	US 6,477,647 B1	Nov. 05, 2002

The rejections as presented by the Examiner are as follows:

1. Claims 1, 3, 11, 13, 21, 23, 31, 32, 37, and 38 are rejected under 35 U.S.C § 103(a) as unpatentable over Dunn, Abecassis, Sartain, Venkatraman, and Hylton.
2. Claims 2, 6, 7, 8, 12, 16, 17, 18, 22, 26, 27, 28, 35, and 40 are rejected under 35 U.S.C § 103(a) as unpatentable over Dunn, Abecassis, Sartain, Venkatraman, Hylton, and Yurt.
3. Claims 9, 19, 29, 36, and 41 are rejected under 35 U.S.C § 103(a) as unpatentable over Dunn, Abecassis, Sartain, Venkatraman, Hylton, and Lawler.
4. Claims 10, 20, 30, and 42-49 are rejected under 35 U.S.C § 103(a) as unpatentable over Dunn, Abecassis, Sartain, Venkatraman, Hylton, Yurt, and Lawler.

OPINION

Appellant submits that the rejection of the independent claims (1, 11, 21, 31, and 37) on appeal errs in the proposed combination of Dunn and Sartain.

Dunn teaches an interactive television system 20 (Fig. 1). According to column 5, lines 24 through 40, a user may order a video program that corresponds to a preview trailer by actuating an “order” button 86 (Fig. 3). The order button causes the set top box (STB) to send a message to the headend, containing a trailer or program descriptor to request transmission of the video program from the headend.

The rejection (Answer 6) asserts that Sartain discloses converting a distribution request into an e-mail addressed to the distribution controller of the transmitter. The rejection relies in particular on material in column 10 of Sartain.

Internet connection **650** relays subscriber selections which are made over the internet. In the preferred embodiment, an accounting service within the internet is provided (1) through an internet company (e.g., America On-Line, CompuServe, and the like), (2) through an e-mail address, or (3) through a World Wide Web page. This accounting service requests the selected video program identification number along with a credit card number. The credit card number is used for the charge associated with the selecting of the video program. Thus, computers within the subscribers’ homes can be used to order and display video programs.

Sartain col. 10, ll. 15-26.

The statement of the rejection and the “Response to Argument” section of the Answer seem to conclude that external request gateway 610 (Fig. 5; col. 9, l. 41 - col. 10, l. 14) is equivalent to the claimed “distribution

controller.” The “Response” section of the Answer provides reasons why external request gateway should be considered within the meaning of a “distribution controller.”

However, as made plain in the Reply Brief, Appellant’s arguments in the Brief regarding external gateway 610 are stated in terms of “even if” one were to assume a distribution request e-mail was addressed to gateway 610.

Sartain does not disclose an e-mail message addressed to gateway 610. As the above-quoted section of Sartain describes, an accounting service within the Internet (650; Sartain Fig. 5) may be contacted via an e-mail address. The accounting service requests video program identification and a credit card number. Sartain does not disclose that an e-mail message is sent to gateway 610, or, for that matter, to interactive-voice response (IVR) 600 or office 330 (Fig. 5). Contrary to the statement of the rejection, Sartain does not disclose converting a distribution request into an e-mail addressed to the distribution controller of the transmitter.

We are therefore in substantial agreement with Appellant’s arguments set out at pages 4 through 9 of the Reply Brief. We are persuaded that the combination of Dunn and Sartain fails to teach the claim limitations that are alleged. Since the references that are applied fail to teach all limitations of the respective independent claims, we do not sustain the rejection of any claim on appeal.

CONCLUSION

The rejection of claims 1-3, 6-13, 16-23, 26-32, 35-38, and 40-49 under 35 U.S.C. § 103(a) is reversed.

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REVERSED

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ELD

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